

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

NGHIA PHO,

Defendant

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CRIMINAL NO. GLR-17-631

MOTION TO VACATE ORDER OF FOFEITURE

The United States of America moves to vacate the Order of Forfeiture, ECF No. 29, specifically as it relates to the following property:

1. All electronic and digital devices seized from the defendant's residence in or about March 2015, including computers, hard disk drives, portable hard drives, CDs, DVDs, thumb drives, and the like; and
2. All seized documents, including handwritten notes, printed documents, and shredded materials.

The above-listed property was incorrectly identified in the Government's request for a preliminary order of forfeiture as proceeds subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) as a result of the defendant's violation of 18 U.S.C. § 793(e). Such property would therefore be subject to potential third-party claims in an ancillary forfeiture proceeding after the Government provided notice and publication pursuant to the preliminary order of forfeiture. However, this property, consisting of documents and information belonging to the United States that the defendant was unauthorized to possess, constitutes contraband that no other third party would be entitled to possess and that should be disposed or destroyed accordingly. The Government has not issued notice or publication under the preliminary order of forfeiture, but neither has it been able to dispose of the contraband property while the

preliminary order stands. For these reasons, the Government requests that the preliminary order of forfeiture be vacated.

WHEREFORE, the United States of America respectfully requests that the preliminary order of forfeiture, ECF No. 29, be vacated so the above-listed contraband property may be disposed properly and in accordance with law.

Respectfully submitted,

Robert K. Hur
United States Attorney

/s/

Thomas P. Windom
Assistant United States Attorney